

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NORMAN CRONEY,

Plaintiff,

6:23-cv-1438 (BKS/TWD)

v.

LUIS DEJOY,

Defendant.

Appearances:

Plaintiff pro se

Norman Croney

16-A-0510

Sing Sing Correctional Facility

354 Hunter Street

Ossining, NY 10562

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Norman Croney brought this action under 42 U.S.C. § 1983 and sought leave to proceed *in forma pauperis* (“IFP”). (Dkt. Nos. 1, 5). This matter was referred to United States Magistrate Judge Therese Wiley Dancks who, on January 30, 2024, granted Plaintiff’s application to proceed IFP and issued a Report-Recommendation, recommending: (1) that Plaintiff’s First and Fourth Amendment claims, insofar as Plaintiff seeks to hold Defendant liable in his individual capacity, be dismissed with leave to amend; and (2) that Plaintiff’s claims against Defendant in his official capacity be dismissed. (Dkt. No. 8). Plaintiff did not file objections to the Report-Recommendation, but instead filed an amended complaint, replacing the original complaint, as he was entitled to do under Federal Rule of Civil Procedure 15(a)(1). (Dkt. No. 9). On July 11, 2024, this Court issued a decision and order denying the recommendations in

the Report-Recommendation as moot and recommitting the matter to Magistrate Judge Dancks for an initial review of the amended complaint. (Dkt. No. 13). On August 29, 2024, Magistrate Judge Dancks issued a Report-Recommendation recommending that the amended complaint be dismissed without prejudice and with leave to amend. (Dkt. No. 14). Magistrate Judge Dancks informed Plaintiff that he had fourteen days within which to file written objections to the report under 28 U.S.C. § 636(b)(1), and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 7). No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

ORDERED that Magistrate Judge Dancks’s Report-Recommendation (Dkt. No. 14) is **ADOPTED**; and it is further

ORDERED that the amended complaint (Dkt. No. 9) is **DISMISSED WITHOUT PREJUDICE AND WITH LEAVE TO AMEND**; and it is further

ORDERED that any second amended complaint must be filed **within thirty (30) days** of the date of this Order. Any second amended complaint must be a complete pleading which will replace the current complaint in total; and it is further

ORDERED that if Plaintiff files a timely second amended complaint, it shall be referred to Magistrate Judge Dancks for review; and it is further

ORDERED that if Plaintiff fails to file a timely second amended complaint, the Clerk shall close this case without further order; and it is further

ORDERED that the Clerk serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: October 24, 2024
Syracuse, New York

Brenda K. Sannes
Brenda K. Sannes
Chief U.S. District Judge